



Sen. Kwame Raoul

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LRB100 06848 RLC 24994 a

1 AMENDMENT TO SENATE BILL 592

2 AMENDMENT NO. _____. Amend Senate Bill 592 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-6-3.5 and by adding Section 5-6-3.4-5 as
6 follows:

7 (730 ILCS 5/5-6-3.4-5 new)

8 Sec. 5-6-3.4-5. Unlawful Possession of Firearms Diversion
9 Program.

10 (a) If a court (i) has reason to believe that a person who
11 is charged with or convicted of a violation of Section 24-1 or
12 24-1.6 of the Criminal Code of 2012 involving the unlawful
13 possession of a firearm, where the violation does not involve
14 the commission of a crime of violence as defined in Section 2
15 of the Crime Victims Compensation Act, suffers from
16 Post-Traumatic Stress Disorder (PTSD) or trauma that led to the

1 firearm possession violation, and (ii) finds that he or she is
2 eligible for treatment under this Section, then the court shall
3 advise the person that he or she may be sentenced to probation
4 and shall be subject to terms and conditions of probation under
5 Section 5-6-3 of this Code if he or she elects to submit to
6 treatment and is accepted for treatment by an Unlawful
7 Possession of Firearms Diversion Program qualified by the
8 Department of Human Services. The court shall further advise
9 the person that:

10 (1) if he or she elects to submit to treatment and is
11 accepted, he or she shall be sentenced to probation and
12 placed under the supervision of the qualified program for a
13 period not to exceed the maximum sentence that could be
14 imposed for his or her conviction or 5 years, whichever is
15 less;

16 (2) during probation he or she may be treated at the
17 discretion of the program; and

18 (3) if he or she adheres to the requirements of the
19 program and fulfills the other conditions of probation
20 ordered by the court, he or she will be discharged, but any
21 failure to adhere to the requirements of the program is a
22 breach of probation. The court may certify a person for
23 treatment while on probation under the supervision of a
24 qualified program and probation authorities regardless of
25 the election of the person.

26 (b) If the person elects to undergo treatment or is

1 certified for treatment, the court shall order an examination
2 by a qualified program to determine whether he or she suffers
3 from Post-Traumatic Stress Disorder (PTSD) or trauma that led
4 to the firearm possession violation and is likely to be
5 rehabilitated through treatment. The program shall report to
6 the court the results of the examination and recommend whether
7 the person should be placed for treatment. If the court, on the
8 basis of the report and other information, finds that the
9 person suffers from Post-Traumatic Stress Disorder (PTSD) or
10 trauma that led to the firearm possession violation and is
11 likely to be rehabilitated through treatment, the person shall
12 be placed on probation and under the supervision of the program
13 approved for treatment and under the supervision of the proper
14 probation authorities for probation supervision unless, giving
15 consideration to the nature and circumstances of the offense
16 and to the history, character, and condition of the person, the
17 court is of the opinion that no significant relationship exists
18 between the Post-Traumatic Stress Disorder (PTSD) or trauma of
19 the person and the crime committed, or that his or her
20 imprisonment or periodic imprisonment is necessary for the
21 protection of the public, and the court specifies on the record
22 the particular evidence, information or other reasons that form
23 the basis of that opinion. However, under no circumstances
24 shall the person be placed under the supervision of a qualified
25 program before the entry of a judgment of conviction.

26 (c) If the court, on the basis of the report or other

1 information, finds that the person suffering from
2 Post-Traumatic Stress Disorder (PTSD) or trauma is not likely
3 to be rehabilitated through treatment, or that his or her
4 Post-Traumatic Stress Disorder (PTSD) or trauma and the crime
5 committed are not significantly related, or that his or her
6 imprisonment or periodic imprisonment is necessary for the
7 protection of the public, the court shall impose sentence as in
8 other cases. The court may require progress reports on the
9 person from the probation officer and program as the court
10 finds necessary. No person may be placed under treatment
11 supervision unless a qualified program accepts the person for
12 treatment.

13 (d) Failure of a person placed on probation and under the
14 supervision of a qualified program to observe the requirements
15 set down by the program shall be considered a probation
16 violation. The failure shall be reported by the program to the
17 probation officer in charge of the person and treated in
18 accordance with probation regulations.

19 (e) Upon successful fulfillment of the terms and conditions
20 of probation the court shall discharge the person from
21 probation. If the person has not previously been convicted of
22 any felony offense and has not previously been granted a
23 vacation of judgment under this Section, upon motion, the court
24 shall vacate the judgment of conviction and dismiss the
25 criminal proceedings against him or her unless, having
26 considered the nature and circumstances of the offense and the

1 history, character, and condition of the person, the court
2 finds that the motion should not be granted. Unless good cause
3 is shown, the motion to vacate must be filed at any time from
4 the date of the entry of the judgment to a date that is not more
5 than 60 days after the discharge of the probation.

6 (730 ILCS 5/5-6-3.5)

7 Sec. 5-6-3.5. Appropriations to the Department of Human
8 Services for services under the Offender Initiative Program,
9 ~~and~~ Second Chance Probation, and the Unlawful Possession of
10 Firearms Diversion Program..

11 (a) As used in this Section, "qualified program" means a
12 program licensed, certified, or otherwise overseen by the
13 Department of Human Services under the rules adopted by the
14 Department.

15 (b) Subject to appropriation, the Department of Human
16 Services shall, in collaboration with the appropriate State
17 agency, contract with counties and qualified programs to
18 reimburse the counties and qualified programs for the
19 following:

20 (1) Services relating to defendants eligible for and
21 participating in an Offender Initiative Program, subject
22 to Section 5-6-3.3 of this Code, including:

23 (A) psychiatric treatment or treatment or
24 rehabilitation approved by the Department of Human
25 Services as provided for in subsection (d) of Section

1 5-6-3.3 of this Code; and

2 (B) educational courses designed to prepare the
3 defendant for obtaining a high school diploma or to
4 work toward passing the high school equivalency test or
5 to work toward completing a vocational training
6 program as provided for in subsection (c) of Section
7 5-6-3.3 of this Code.

8 (2) Services relating to defendants eligible for and
9 participating in Second Chance Probation, subject to
10 Section 5-6-3.4 of this Code, including:

11 (A) psychiatric treatment or treatment or
12 rehabilitation approved by the Department of Human
13 Services as provided for in subsection (d) of Section
14 5-6-3.4 of this Code; and

15 (B) educational courses designed to prepare the
16 defendant for obtaining a high school diploma or to
17 work toward passing the high school equivalency test or
18 to work toward completing a vocational training
19 program as provided in subsection (c) of Section
20 5-6-3.4 of this Code.

21 (3) Services relating to defendants eligible for and
22 participating in the Unlawful Possession of Firearms
23 Diversion Program, subject to Section 5-6-3.4-5 of this
24 Code, including psychiatric treatment or treatment or
25 rehabilitation approved by the Department of Human
26 Services as provided for in subsection (b) of Section

1 5-6-3.4-5 of this Code.

2 (c) The Department of Human Services shall retain 5% of the
3 moneys appropriated for the cost of administering the services
4 provided by the Department.

5 (d) The Department of Human Services shall adopt rules and
6 procedures for reimbursements paid to counties and qualified
7 programs. Moneys received under this Section shall be in
8 addition to moneys currently expended to provide similar
9 services.

10 (e) Expenditure of moneys under this Section is subject to
11 audit by the Auditor General.

12 (f) The Department of Human Services shall report to the
13 General Assembly on or before January 1, 2016 and on or before
14 each following January 1, for as long as the services are
15 available, detailing the impact of existing services, the need
16 for continued services, and any recommendations for changes in
17 services or in the reimbursement for services.

18 (Source: P.A. 98-1124, eff. 8-26-14.)".